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JAMES BARR AMES — HIS SERVICES TO LEGAL EDUCATION.

THE services of James Barr Ames to the cause of legal education were of various kinds. For thirty-six years without interruption he taught in the Harvard Law School, and every student that was graduated from the school during that period came under his instruction, and this in itself implies a profound influence upon legal education and upon the legal thought of his generation. The earlier years of his teaching were also the years when the case system of instruction for law students was on trial, and Mr. Ames's success in adapting for practical use the fundamental idea of his predecessor, Dean Langdell, unquestionably had much to do with the ultimate triumph of the case system.

Mr. Ames also had a large part in directing legal education, wholly apart from his work as a teacher, by his administration of the Harvard Law School during the period of its greatest growth for the fifteen years preceding his death; and finally in his later years he exercised an influence on the legal education of the country in other ways than by promoting the interest and efficiency of his own school. All these means of influence deserve attention.

To many of his pupils it seems that he was a teacher great almost beyond comparison with any other. Many things combined to give him such preëminence. In the first place he was a very learned man. During all his life, after he first took up the study of the law, he was an assiduous reader of the decisions of the courts; and a retentive memory enabled him to preserve in his mind the results of this reading, and often to recall the volume where the case he wished was to be found. He was omnivorous in his reading of law reports. When he was a young man he made a practice of taking the Year Books to his summer home and literally went through them, making the notes which afterwards he partially elaborated in the essays on legal history which distinguished the early volumes of the *HARVARD LAW REVIEW*. None the less assiduously he went through each part of the National Reporter System as it appeared, taking notes of all decisions which

interested him. Though not a trained civilian he was a good linguist, having taught Latin in a preparatory school and French and German in Harvard College as a young man. He could, therefore, read easily foreign books on the civil law, and throughout his life it was his habit when puzzled by a question of theoretical jurisprudence to see if light could be obtained from the writings of continental lawyers. It was largely owing to this habit and the benefit which he felt might be derived from it that the library of the Harvard Law School owes its extensive collection of treatises, periodicals, reports and statutes of the modern civil law.

In order to freshen and widen his knowledge of the law it was Mr. Ames's habit from the beginning of his career as a teacher, until the end, to change, from time to time, the subjects which he taught. He rarely taught identically the same subjects two consecutive years. He also rarely took up a subject without teaching it at least several years, as he deemed that necessary in order to get a full grasp of its principles. As a result of this habit there were very few courses in the curriculum of the school at the time of his death with which he had not made himself familiar by giving instruction in them. All of his colleagues could, and did, discuss with him the most knotty problems of their several specialties with certainty of getting aid. His familiarity with the principles and decisions on the various subjects which he taught was increased by the preparation of case-books. Many courses when he first assumed them were not provided with case-books, and he took enthusiastic pleasure in preparing them. Preparation of a case-book by him meant going over substantially all the cases on the subject to which the book was devoted. A few selected decisions he printed for his students to read; the rest he arranged in elaborate annotations to the cases which he printed. In all work of this sort which he did the analysis and arrangement of the subject were of primary importance to him. His mind was thus furnished with an orderly scheme of his subject as well as with the authorities upon it.

But a display of erudition was by no means a prominent feature of Mr. Ames's work in the class room. His great store of knowledge of legal principles in all departments of the law was freely drawn upon, as was his intimate acquaintance of the historical development of the doctrines which were under consideration; but he rarely went into detailed consideration of authorities in the class room. The

"God of Things as They Are" was by no means his favorite legal deity. He was an idealist in law, and his supreme gift as a scholar and a teacher was his constructive legal imagination. He believed it to be the function of the lawyer, and especially of the teacher of law, to weld from the decisions a body of mutually consistent and coherent principles. To his mind there was but one right principle upon a given point, and if decisions failed to recognize it, so much the worse for the decisions. He would never answer in the lecture room a question as to the law of a particular State, preferring to develop the fundamental principles of his subject as he conceived it, leaving the matter there. That all the results of a mind so fertile in theory as Mr. Ames's should find ultimate acceptance is too much to expect; but that the legal analysis which he led his classes to make on his favorite subjects will be without influence on the law, is also not to be believed. Often his results were as satisfying as they were always brilliant and ingenious.

Mr. Ames began the study of the law when Mr. Langdell first began to teach, and became the colleague of his master only three years after the latter had entered upon his duties as Dean of the Harvard Law School. Mr. Langdell introduced the case system for students as a method of study more particularly than as a method of teaching. In his preface to his "Cases on Contracts" he said, "Of teaching, indeed, as a business, I was entirely without experience; nor had I given much consideration to that subject except so far as proper methods of teaching are involved in proper methods of study." Mr. Langdell's primary position was that the only scholarly way to learn the law of a subject was to read all the decided cases bearing upon it — an easier thing to do in 1870 than at the present time. Professor Thayer in the preface to his "Cases on Evidence" lays stress on the case system being one of study rather than of teaching. It was Mr. Ames that gave the system its success as a method of teaching. Doubtless good teachers of law have always been in the habit of putting supposititious cases to their classes. By combining this practice with the use of decisions selected quite as much for the adaptability of their facts to the purposes of discussion as to their authoritative force as precedents (though the latter element was not wholly disregarded), and by a skill hardly surpassed by Socrates in inducing his pupils to answer by their own reasoning the problems which the cases suggested, Mr. Ames developed a remarkably flexible and effective

mode of teaching from cases. That his teaching has been in the main the model for his younger colleagues and for the many graduates of the Harvard Law School now following his profession in other law schools is certain.

In 1895 Mr. Ames became Dean of the Harvard Law School; for many years before this he had been Mr. Langdell's chief lieutenant.

During the years of Mr. Ames's leadership the standards of scholarship required for admission to the school and for securing its degree were continuously made more severe. Mr. Ames's faith that excellence would always win recognition was unquestioning and inspiring to others. The more membership in the school meant to a student and the severer the test required for its degree, the more eager good students would be to resort to the school, was never doubtful to Mr. Ames's mind. Accordingly he had no doubt or hesitation in requiring a college degree as a requisite for admission to the school, and he was the least surprised of the Faculty when this requirement was almost immediately followed by a large growth in the numbers of students. The exclusion of all special students who could not comply with the tests required of students in regular standing, and the exclusion from the school of all students who failed to pass examinations in at least four full courses, were other rules of far-reaching effect started by him and carried into effect with good results during his administration. A poor but able and ambitious student was better served he thought by helping him to meet severe requirements than by excusing him from them.

Beside his constructive work in shaping the policy of the school in such vital matters, Mr. Ames's influence was constantly felt both by the Faculty and students of the Law School. He made it his business as well as his pleasure to keep on intimate terms with each of his colleagues, to inform himself of the work and plans of each and to further them so far as possible. In this way he maintained and developed the *esprit de corps* of the Faculty. His intercourse with the students was even more important. He was not an administrator of the type who trains and directs others to do the work at hand; his plan was rather to attend to all details himself. Students always had ready access to him, and questions arising in regard to the construction of rules were generally decided in interviews with him rather than with a minor official. All students in doubt or difficulty

or pecuniary need, laid their difficulties before him with assurance of sympathy and, if possible, of help; yet he was never weak or careless in giving help. His sympathy was always controlled by justice, and his idea of justice was not simply that each applicant should be treated as well as any other applicant under similar circumstances, but that he should be treated no better than other applicants had been. His position often compelled him to say disagreeable things, and when he felt it his duty to say something which he knew must be unpleasant to the hearer, he never hesitated to say it if he felt it ought to be said. He had, however, in a rare degree the faculty of saying such things without causing personal animosity, because it was always evident that his own statements were based on a sense of duty. His hold upon the students was thus made very strong by their absolute confidence in his sympathy and in his sense of justice.

In the earlier years of his career, Mr. Ames seems to have felt that his duty to legal education consisted in building up the Harvard Law School; that other institutions must do their work as seemed best to them and that little could be hoped for in the way of coöperation; but in the later years of his life his views on this matter much expanded. Partly, no doubt, this was due to changed conditions. The methods of the Harvard Law School, from having been universally decried, were followed by many other schools. Young graduates of the Harvard Law School filled important places as teachers in such schools, and similarity of methods of teaching as well as in the ideal of training scholarly lawyers became common. His recommendation of young men for the post of teachers in other schools was widely sought, and through these teachers, as well as through his case-books, and through his friendship with teachers in other schools, he exercised a great influence, though one not easily measured, in the legal education of the country.

However one may seek to analyze the sources of influence of a great teacher and the methods which give him success, one is drawn at last to explain a great part of it by his personality; and of no man can this more truly be said than of Mr. Ames. It has always seemed to me a cause for belief in the essential soundness of the judgment as well as of the heart of the youth of the country that Mr. Ames commanded so instantly and universally the admiration and love of those with whom he was thrown. His gifts though many were not showy, and to make any conscious effort to exhibit them would have

been abhorrent to his nature. He was always ready to keep silent when under no duty to speak. If some one else wished to take the foreground, Mr. Ames was ready to stand in the background and, if necessary, give a little quiet assistance to the man who was in front; yet no one was long associated with him without recognizing his quality and being inspired by it.

Rather than use words of my own to attempt to express the source of inspiration that he was to his pupils, I prefer to quote from one of many letters received after his death. The writer of this letter was graduated a number of years ago, and on leaving the Law School returned to his home in California. Since that time I do not think he can have seen Mr. Ames, and any communication by letter between the two must have been rare. Time, distance, and contact with a busy world have exercised every power of giving a correct perspective and of dimming earlier impressions; yet such a man, no longer in early youth, can write of his former teacher:

"No other man with whom I have come in contact has made such an impression upon me, or awakened in me such a strong admiration and desire to serve. I have often thought that if the days of war were to come again with men following chosen leaders, Dean Ames is the one under whom I should want to enlist. He was the kind of man one worships and would die for. I have never felt the same about any other man I have ever known."

These words will strike a responsive chord in many hearts.

Mr. Ames led the life of a scholar, and his work was largely in the world of books and of abstract ideas. He was a pacifier of disputes, and loved peace so long as it was consistent with righteousness. But those who knew him saw in him that combination of courage with gentleness and self-discipline which in other days and circumstances has given fame on the field of battle, and which marked a spiritual kinship between our lost leader and Sir Philip Sidney and the Chevalier Bayard.

Samuel Williston.

CAMBRIDGE, MASS.



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James Barr Ames